

All EPA New England staff to be trained in EJ

Beginning in March 2002, EPA New England will be offering one- and three-day environmental justice training sessions that will eventually reach all of the region's more than 700 employees. This thorough training effort is part of the region's strategy to institutionalize EJ activities and ensure that EJ is factored into everyday work.

The EJ training, which will be done over the next year, is a key component of the region's EJ Action Plan for Fiscal Years 2001 and 2002. Staff with a primarily internal focus, including administrative support, computer support, grants management, procurement, customer service and their managers, will receive one-day Environmental Justice Awareness training, while staff with a primarily external focus, including permit writers, inspectors, team

leaders and managers, will receive more intense three-day Environmental Justice Fundamentals Workshop training.

The three-day course was developed by the Environmental Justice Training Collaborative, a group of representatives from EPA, other federal agencies, states, tribal governments, faith-based groups, community organizations and academia. The Collaborative has worked for two years to create the EJ Fundamentals Workshop and to empower trainers with skills and materials to conduct the workshop in a variety of settings. EPA New England had a substantial role in workshop curriculum development and the Boston office hosted three Collaborative events—a debut of the pilot with 40 participants in October 2000, one of six national pilots of the

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EPA New England's Urban Environmental Initiative to become a permanent program

EPA New England's Urban Environmental Initiative issued a report in January on its first five years of environmental accomplishments in Boston, Providence and Hartford, and Regional Administrator Robert W. Varney concurrently announced plans for UEI to become a permanent program in the region. The report, "Agents of Change: Making the Vision a Reality," documents the UEI's successes, approach and lessons learned since its inception in 1995.

The UEI was the first coordinated effort at EPA New England to respond to urban environmental problems in a holistic way by connecting urban

residents with resources to improve their environment, public health and quality of life. UEI's primary goals are to:

- Restore and revitalize the environment or urban neighborhoods and improve public health.
- Build local capacity to assess, address, and resolve environmental problems.
- Promote sustainable economic development that does not compromise environmental quality and public health.

From 1995 to 2000, the UEI funded and managed 153 projects worth over \$5 million in the targeted cities of Boston, Providence and



Hartford, including:

- Revitalizing 600 vacant lots in Providence that threatened the environment and public health because of illegal dumping and rats.
- Helping secure technical

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Boston's goal: First city to end childhood lead poisoning

Last November, an all-day summit on childhood lead poisoning, Let's End It Here!, was held in Boston. The meeting brought together citizens, activists and city, state and federal officials crucial to writing a blueprint to end childhood lead poisoning by 2005.

"We have the infrastructure in place for Boston to be the first city in the nation to end childhood lead poisoning," said Boston Mayor Thomas Menino.

"It is unacceptable that thousands of children are still being poisoned each year by lead, many of them right here in Boston," said Robert W. Varney, Regional Administrator of EPA's New England Office, which provided more than \$2 million last year to support lead prevention efforts in the region. "Today's conference will explain how we will better target our resources to virtually eliminate childhood lead poisoning in Boston by 2005."

In Boston, an estimated 90,400 homes—40 percent of all homes in the city—contain lead-based paint that could be a potential hazard. Last year more than 1,300 children in Boston had elevated blood levels, according to the Massachusetts Department of Health. Lead poisoning can cause permanent damage to the brain, kidneys, and nervous system. Even low levels of lead can slow a young child's development and cause learning and behavior problems. Children are most commonly poisoned by lead paint and dust from their homes.

"One in five African-American children and one in six low-income children who live in older homes have high blood lead levels. That is unacceptable," said Leonard C. Alkins, president of the Boston branch of the NAACP, who gave the keynote address at the meeting.

Despite an overall decline in lead poisoning rates in recent years, many

neighborhoods, including Dorchester and Roxbury, have not seen their rates decrease as quickly. Low-income children and children of color continue to be disproportionate victims of this disease.

Other participants in the summit included: Charlotte Golar-Richie, executive director of the Department of Neighborhood Development; 5th Suffolk District Rep. Marie St. Fleur; Stephanie Pollack, vice-president of the Conservation Law Foundation; Paul Junter, director of the Mass. Department of Public Health's Childhood Lead Poisoning Prevention Program; and John Auerbach, director of the Boston Public Health Commission's Lead Poisoning Prevention Program.

The Lead Action Collaborative, one of the sponsors of the event, presented a Life-Time Achievement Award to U.S. Senator Edward Kennedy for his leadership in working to end childhood lead poisoning.

Manchester man admits guilt in precedent-setting lead case

In December, a New Hampshire man and his company pleaded guilty in federal court in connection with the lead poisoning and subsequent death of a toddler who resided in an apartment managed by the company.

James T. Aneckstein and his JTA Real Estate and Property Management company pleaded guilty to the U.S. Attorney's Office's criminal charges of obstructing justice, making false statements to investigators and failing to provide prospective tenants with lead-based paint disclosure information required by federal law.

After the Manchester Health Department determined that two-year-old Sunday Abek's death was most likely caused by lead paint and lead-contaminated dust in and around her apartment, EPA investigators visited Aneckstein's office to determine if his company complied with the federal Real Estate Notification and Disclosure Rule when he leased a

Manchester apartment to the victim's mother. The lead disclosure rule requires property owners and their agents to:

- Provide tenants with an EPA-approved lead hazard information pamphlet that contains information to protect families from lead-based paint hazards in their homes.
- Disclose knowledge of lead-based paint and hazards in buildings constructed before 1978.
- Provide a list of any records or reports available that describe lead-based paint hazards.
- Have tenants and purchasers sign an acknowledgment that they have received the information and keep those acknowledgments for three years.

Aneckstein gave EPA investigators—and later a federal grand jury—forged and fictitious documents falsely certifying that the victim's mother and other tenants in the apartment building had been

given the federal lead disclosure information.

Sentencing for Aneckstein and the JTA corporation is scheduled for March 26, 2002. Aneckstein's plea agreement, if approved by the court, would require him to serve up to a 15-month jail sentence and pay fines of up to \$40,000, while JTA's plea agreement could result in criminal fines of up to \$500,000 for each of six felony counts and additional fines for failing to provide lead disclosure information.

Older cities like Manchester have many homes that were built before 1940, making them more likely to have lead paint in them. Poverty is also a risk factor for lead poisoning because families with low incomes are more likely to live in older housing which need repairs and remodeling to make them lead safe. Children in Manchester are almost twice as likely to live in poverty than other children in New Hampshire.

Office notes

Interim mapping guidance

In January 2002 the Environmental Justice Council at EPA New England issued an interim environmental justice mapping guidance to be followed while the GIS Center finishes the desktop mapping tool outlined in the EJ Action Plan for Fiscal Years 2001 and 2002. The new tool is expected to become available in late 2002, and in the interim period staff should contact the GIS center for any mapping needs at 617-918-2089.

Did you know?

The EPA's national Office of Environmental Justice has an environmental justice mapping tool available for the public on the internet that provides easy access to information on EPA permitted facilities and their surrounding communities. The EnviroJustice Mapper was developed as part of a joint project between the OEJ and the Office of Environmental Information in response to a National Environmental Justice Advisory Council request to provide public access to information on permitted facilities and their surrounding communities. The information provided through the EnviroJustice Mapper represents permit information from several major media (air, water, solid and hazardous waste) systems, integrated into single facility reports provided by the Integrated Data for Enforcement Analysis system. Demographic information is derived from the 1990 U.S. Census and health data is derived from the Center for Disease Control National Center for Health Statistics. Search the system using facility or geographic information at <http://es.epa.gov/oeca/main/ej/ejmapper/>.



Farewell Natasha

The members of the EJ Council and the staff of the Office of Civil Rights and Urban Affairs all bid Natasha Greaves a very fond farewell this week. Natasha has worked at EPA New England for nearly a year, all while finishing her thesis for her two masters degrees in Civil & Environmental Engineering and Urban Environmental Policy & Planning at Tufts University. With her diplomas nearly in hand, Natasha has set her sight on Washington D.C., and we all wish her the best of luck in her future endeavors.



She's back

Last summer Chitra Kumar delved into the complexities of the various GIS mapping tools for identifying areas of environmental justice concern across all the regional EPA offices and headquarters. Now Chitra will be statistically analyzing the methodology for determining areas of environmental justice concern in order to bring the region one step closer to developing its new desktop EJ mapping tool. It is a good thing this MIT graduate student comes well-prepared with a background in city and environmental planning and GIS.



NEJAC drafts fish consumption report, more recommendations to follow

A week-long meeting of the National Environmental Justice Advisory Council in December focused on how EPA should improve the quality, quantity, and integrity of our nation's aquatic ecosystems in order to protect the health and safety of people consuming or using fish, aquatic plants, and wildlife. The NEJAC is a federal advisory committee to the U.S. Environmental Protection Agency.

Many diverse stakeholders including EPA officials, environmental activists, state and local environmental regulators, non-profit groups, Native American tribal members and interested citizens, attended the meeting. People testified at the meeting and all the attendees reviewed a draft fish consumption report that identified populations at risk for subsistence fishing. The study identifies traditional fishing patterns of Native Americans as producing unique susceptibilities and co-risk factors.

The NEJAC will issue a final report and recommendations on aquatic ecosystems to EPA over the next several months. One important recommendation that NEJAC has already made, and that EPA's national Office of Environmental Justice is implementing, is to promote Regional Listening Sessions.

The NEJAC has asked EPA offices to be proactive in identifying environmental issues of concern to communities, and several regions are already designing these sessions. The NEJAC, will continue to advise EPA on how to design and conduct these sessions.

Massachusetts EJ bill one step closer to becoming law

On Jan. 12, the Massachusetts Senate voted 36 to 0 in favor of a bill to establish an environmental justice designation program. The bill was referred to the Massachusetts House of Representatives the following day, where it is still pending.

The bill was introduced in response to concerns that certain communities bear a disproportionate burden of negative environmental impacts and related adverse public health impacts. The bill, first introduced in 1999, directs the Massachusetts Executive Office of Environmental Affairs to develop statewide policies that recognize and protect areas of critical environmental justice.

Senate Bill 2243 was most recently redrafted by the Senate Ways and Means committee to define environmental justice and specify what regulations the EOEA must adopt if the bill passes, including those to:

(a) define areas of critical environmental justice concern and establish a standard of environmental review in these areas to protect them from environmental hazards while promoting clean, healthy development and the cleanup of existing hazardous sites in these areas;

(b) create a process by which communities can apply on their own initiative for designation as an area of critical environmental justice concern;

(c) provide a procedure by which the office may designate an area as one of critical environmental justice concern without the community having applied for such a designation.

If enacted, the bill would require the EOEA to adopt initial regulations within 90 days.



EPA orders air quality improvements at Mystic Station power plant

Last week the U.S. Environmental Protection Agency ordered the Mystic Station power plant in Everett to take immediate steps to reduce the amount of soot and other particulate pollutants coming out of its smoke stacks. Sithe Mystic, which owns the oil-fired power plant, is cooperating with EPA's compliance order. The order comes after years of complaints by Greater Boston residents about Mystic's smoke, which contains particulate pollution that can trigger asthma and other respiratory illnesses.

Under the order signed by Sithe and EPA, the company is installing new ignition equipment on three of the facility's older generators – Units 4, 5 and 6 – each of which generates 135 megawatts. The work has already begun and will be finished by May 1. This summer, these three units also will switch, as necessary, to a lower sulfur, cleaner burning fuel oil that will further reduce soot emissions and help eliminate sulfur-based smoke plumes. Sithe also will conduct an extensive opacity monitoring and testing program for all four generators at the site which will help determine if additional compliance

measures are needed.

"This order is a critical step towards bringing the Mystic power plant into much-needed compliance with state and federal limits on smoke emissions," said Robert W. Varney, regional administrator of EPA's New England Office. "I am pleased that Sithe has signed and is cooperating with the order. This will help ensure healthier air for all Greater Boston residents, especially for those living in low-income and minority neighborhoods that are more prone to cumulative environmental health effects."

The order stems from Mystic Station's long-standing violations of federal and state air regulations that prohibit sources from emitting thick, sooty smoke into the air. Specifically, Clean Air Act regulations prohibit smoke with than 20 percent opacity (a measure of smoke thickness) for more than six minutes per hour and prohibit smoke with more than 40 percent opacity at any time.

Last June, EPA issued Mystic a federal Clean Air Act violation notice documenting more than 290 opacity violations from July to December 2000. Many additional violations

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Sandoval and Camden explained

Deputy regional counsel Pam Hill and assistant regional counsel Wendoly Langlois answer questions about two controversial cases

What is the Alexander v. Sandoval case about?

The Sandoval case pertains to the state of Alabama's decision to administer its driver's license exams only in English. In 1991, the Alabama Department of Public Safety, a recipient of federal assistance from the U.S. Department of Transportation, began administering its driver's license tests only in English. Martha Sandoval sued the ADPS as the representative of a class of Hispanic citizens, alleging that the English-only policy had the effect of subjecting non-English speakers to discrimination based on their national origin in violation of Title VI of the Civil Rights Act of 1964, as amended, and DOT's Title VI regulations.

What does Title VI of the Civil Rights Act prohibit?

Section 601 of Title VI prohibits intentional discrimination on the basis of race, color, or national origin by recipients of federal assistance. Specifically it states that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." Section 602 of Title VI authorizes federal agencies "to effectuate the provisions of [section 601] . . . by issuing rules, regulations, or orders of general applicability . . ."

The Department of Justice, the agency charged with coordinating the federal government's Title VI work, issued regulations that prohibit federal funding recipients from utilizing criteria or methods in the administration of their programs and activities that have the effect of subjecting individuals to discrimination based on their race, color, or national origin. Approximately forty

other federal agencies, including EPA and DOT, have adopted similar regulations, prohibiting both intentional discrimination and disparate impacts.

What did the Sandoval Court hold?

The principal issue before the U.S. Supreme Court in Sandoval was whether, under Title VI of the Civil Rights Act, private individuals like Sandoval have a legal right to bring a lawsuit to enforce federal agencies' discriminatory effects regulations promulgated under section 602 of Title VI.

The Supreme Court held that no such private right of action exists in Title VI, basing its analysis on the principle that private rights of action to enforce federal law must be created by Congress and cannot be created by the judiciary. In determining that Congress did not intend to establish a private right of action to enforce disparate impact regulations in Title VI, the Supreme Court focused on the

text and structure of Title VI, reasoning that section 601 includes "rights-creating language" for individuals, whereas section 602 focuses on agencies' obligations. The Supreme Court then examined the enforcement mechanism in section 602 and concluded that the "elaborate" enforcement scheme established by section 602 "suggests that Congress intended to preclude other[]" means of enforcement.

What, if anything, does Sandoval have to do with environmental justice?

Title VI has been used in attempts to prevent the unfair siting and permitting of polluting facilities by federally-funded agencies and government bodies within communities that are already suffering from disproportionate environmental impacts. The ruling in Sandoval means that a private individual may not bring a court action to enforce federal regulations which prohibit a



Pam Hill, left, and Wendoly Langlois, right, answer Sandoval and Camden questions

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recipient of federal funding from utilizing criteria or methods of administering its programs that result in a discriminatory effect. The only kind of Title VI action available in civil court is a statutory cause of action under sections 601 and 602 based on the recipient's discriminatory intent. However, individuals have been, and still are, able to file Title VI administrative complaints with EPA's Office of Civil Rights based on either intent or effects.

What is the effect of Sandoval on EPA's acceptance of Title VI administrative complaints?

Sandoval does not directly impact EPA's ability to accept and investigate Title VI administrative complaints because the decision concerns whether individuals may sue to enforce section 602 regulations in court.

Who may file a Title VI complaint and how?

A person who believes that he or she, or a member of a specific class of persons has been discriminated against in violation of EPA's Title VI regulations, or their authorized representative, may file a complaint. EPA's Office of Civil Rights intends to accept and investigate a Title VI administrative complaint if it meets the following jurisdictional criteria: (1) It is in writing (oral complaints will not be accepted for investigation); (2) it identifies the entity that allegedly performed the discriminatory act(s), and describes the alleged discriminatory act(s) that violate EPA's Part 7 regulations; (3) it is filed within 180 calendar days of the alleged discriminatory act(s), unless the Office of Civil Rights waives the time limit for good cause; and (4) it is filed by a person or their representative, who believes that he or she, or a member of a specific class of persons, has

been discriminated against in violation of EPA's Title VI regulations. Title VI administrative complaints should be filed with EPA's Office of Civil Rights. Complaints meeting the jurisdictional criteria detailed here may be either mailed to the Director, Office of Civil Rights (1201A), 1200 Pennsylvania Ave. NW, Washington, DC 20460; or faxed to 202-501-1836.

What was the initial decision in South Camden Citizens in Action v. New Jersey Department of Environmental Protection (South Camden) and the decisions in later appeals?

In South Camden, citizen plaintiffs alleged that the New Jersey Department of Environmental Protection's actions intentionally discriminated against and would have discriminatory effects on the plaintiffs in violation of Title VI, and discriminated against the plaintiffs in violation of the 14th Amendment and 42 U.S.C. § 1983 of the Civil Rights Act of 1871. The main issue in this case was whether the issuance of environmental permits by the NJ DEP to the St. Lawrence Cement Company violated Title VI or EPA's Title VI regulations.

In South Camden I, the U.S. District Court for New Jersey held that the plaintiffs had established a *prima facie* case of disparate impact discrimination in violation of Part 7 and issued a preliminary injunction that prohibited the operation of SLC's facility. The District Court also required the NJ DEP to conduct a disparate impact analysis.

Five days after the District Court's decision, however, the Supreme Court ruled in Sandoval that under Title VI sections 601 and 602 there is no private right of action to challenge policies that discriminate unless it can be proven that the discrimination was intentional. In light of this decision, the District Court was obligated to reconsider its decision in South Camden I.

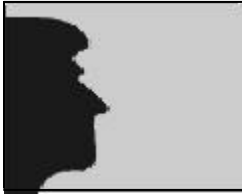
In a supplemental opinion, South Camden II, the District Court judge acknowledged that under Sandoval there was no freestanding private right of action to enforce disparate-impact regulations. The judge concluded, however, that the plain-

tiffs could enforce EPA's Title VI regulations via 42 U.S.C. § 1983. Section 1983 provides an explicit private right of action to enforce certain federal "rights" found in other laws against certain "persons" acting under color of law (which is the appearance of acting under legal authority). The District Court reasoned that section 1983 was applicable because (1) the defendant, NJ DEP Commissioner Robert Shinn, was a "person" for section 1983 purposes, (2) the plaintiffs were alleging violation of federal "rights" that were created through EPA's Title VI regulations, and (3) the history and language of section 1983 seemed to indicate a Congressional intent to allow the use of section 1983 to enforce Title VI.

The Defendants then appealed the South Camden II decision to the U.S. Court of Appeals for the Third Circuit. The specific issue before this court was whether plaintiffs may sue to enforce EPA's Title VI discriminatory effects regulations via 42 U.S.C. § 1983, in light of Sandoval, for alleged discriminatory effects resulting from the issuance of environmental permits by the NJ DEP to the SLC company. The Third Circuit reversed the District Court, holding that: (1) section 1983 cannot be used to enforce a federal regulation unless the interest already is implicit in the statute authorizing the regulation, and (2) because Title VI prohibits only intentional discrimination, the plaintiffs cannot enforce EPA's discriminatory effects regulations through section 1983.

In its reasoning, the Third Circuit found that language in Sandoval and other Supreme Court decisions show that section 1983 cannot be used to enforce a regulation unless the statute itself created the right. Although Title VI section 601 provides freedom from intentional discrimination, there is no Congressional statute that provides the right to be free from discriminatory effects. In light of Sandoval, the Third Circuit ultimately decided that while EPA's discriminatory effects regulations may be valid, they nevertheless do not

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Northeastern University professor Daniel Faber has made a career of exposing environmental injustices

Three years ago, on a trip to a poor rural area of Louisiana with a huge concentration of petrochemical plants and a high incidence of cancer among the predominantly African American residents, Daniel Faber learned that there was a general perception that environmental injustice was really a problem limited to the South. Faced with the impression that environmental injustice was not a significant issue in New England, Faber decided to design a study to explore the existence of environmental injustice in Massachusetts.

Last year Faber and his colleague Eric Krieg, both sociology professors at Northeastern University, released the report "Unequal Exposure to Ecological Hazards: Environmental Injustices in the Commonwealth of Massachusetts." The report is considered one of the most comprehensive environmental justice studies ever done, and takes race, class, multiple hazards, and every one of the 368 communities in Massachusetts into consideration.

"Most EJ studies look at a single environmental hazard, like the very famous United Church of Christ study that found that three out of every four Latinos and African Americans live in a community with a hazardous waste facility, which is about 47 percent more than what you find in white communities," Faber said. "What makes this study unique is that we looked at 17 different types of environmentally hazardous sites and facilities ranging from polluting industrial facility emissions, hazardous waste sites, power plants, incinerators, trash transfer stations—everything I could get my hands on."

Faber and Krieg used data from the 1990 U.S. Census, the Massachusetts Department of Environmental Protection and the U.S. Environmental Protection Agency's Toxic Release

Inventory, and compared every community in the state to see if there were any disparities based on class or race. The study also is unique because it was controlled for population density and used a point scale for the severity of various environmental hazards.

"A Superfund site is considered to be much more serious than a tire dump" said Faber, whose analysis estimated pollution points per square mile. The study identified enormous disparities according to class and race. Among the highlights:

- Communities with median household incomes of less than \$30,000 average nearly 2.5 times more hazardous waste sites and seven times as many pounds of chemical emissions from polluting industrial facilities per square mile compared to communities with median household incomes of over \$40,000.

- On average, communities with median household incomes of less than \$30,000 face three times the cumulative exposure rate to all environmentally hazardous sites and

facilities than all other communities in the state.

- Communities where more than 15 percent of the population are people of color average over four times the number of hazardous waste sites per square mile than communities with less than five percent people of color. Communities where more than 25 percent of the population are people of color average more than nine times the number of hazardous waste sites than communities with less than five percent people of color.

- Communities where more than 25 percent of the population are people of color average nearly five times as many pounds of chemical emissions from polluting industries per square mile than communities with less than five percent people of color.

- On average, communities where more than 25 percent of the population are people of color face nearly nine times the cumulative exposure rate to all environmentally hazardous sites and facilities than communities where less than five

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Professor Faber holding a copy of his "Unequal Exposure" report



Exposing environmental injustice

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percent of the population are people of color.

• Nine of the 15 most environmentally overburdened communities in the state are communities of color (where more than 15 percent of the population are people of color), and there are only 20 communities of color in the state.

Faber said that while community activists, EPA and state policy makers have been generally aware of the racial and class biases cited above, now there are numbers to back it up. Faber said he and Krieg intend to update the study in November with the 2000 Census data.

Faber worked more recently with Deborah McCarthy, also of Northeastern University, on a study sponsored by the Nonprofit Sector Research Fund of the Aspen Institute to look at how foundations can improve their relationships with the EJ movement. Their study, "Green of Another Color: Building Effective Partnerships Between Foundations and the Environmental Justice Movement," shows that environmental justice is one of the most underfunded social movements in the U.S.

"Less than 1 percent of all environmental funding goes to EJ organizations," Faber said. "It impairs the ability of the EJ movement to be an effective advocate for communities of color and lower-income communities."

Faber found that funding for the EJ movement has increased throughout the 1990s, from about \$27.5 million between 1994 and 1996,

to about \$49 million in 1999. Faber believes that the lack of funding for EJ activities is due in part to the fact that the movement is still very young.

"Only in the early 1990s did regional EJ networks begin forming," Faber said. "It took a long time to organize and get resources, and many EJ organizations were initially quite critical of traditional environmental policy."

Faber's study details many of the

important achievements of the EJ movement, and already some foundations have told Faber that they have used his report to create EJ portfolios. Faber hopes that as information about environmental injustices and environmental justice successes gets disseminated, there will be more funding for EJ activities.

*"Less than 1 percent of all environmental funding goes to the EJ movement. It impairs the ability of the EJ movement to be effective."
- Daniel Faber*

Daniel Faber has been working on environmental justice issues since the 1980s when he co-founded the Environmental Project of South America in partnership with Earth Island Institute, Friends of the Earth and the Environmental Policy Institute in Washington, D.C. Faber's early research focused on the interconnections between poverty, environmental destruction, human rights and U.S. policy. Faber moved to Massachusetts in the 1990s and has since focused on EJ issues in the U.S.

ONE/CHANE and CT DEP reach agreement

Last year, U.S. Environmental Protection Agency Administrator Christie Whitman announced the creation of a national task force to deal with EPA's backlog of administrative complaints pursuant to Title VI of the Civil Rights Act of 1964. Title VI prohibits recipients of federal financial assistance from discriminating on the basis of race, color or national origin. EPA regulations implementing Title VI create a process for filing administrative complaints with the agency.

When the Task Force was announced, EPA had 66 open Title VI complaints awaiting action. One of those complaints concerned the North Hartford Landfill, in North Hartford, Connecticut. The complaint was filed in 1996 by the Organized North Easterners and Clay Hill and North End, Inc. ONE/CHANE alleged that the Connecticut Department of Environmental Protection engaged in discriminatory practices and procedures in its processing of permits for regulated facilities, specifically with respect to the expansion of the North Hartford Landfill. Although the state vigorously defended its practices as non-discriminatory, it did agree to participate in informal negotiations with ONE/CHANE, which resulted in a settlement agreement that was signed by DEP Commissioner Arthur Rocque on February 2 and by ONE/CHANE Director Larry Charles on February 5, 2002. The settlement agreement was signed by the parties and has been acknowledged by a February 8, 2002, letter from the Acting Director of EPA's Office of Civil Rights, which formally closes the Title VI investigation.

The agreement provides a framework for future discussions regarding revisions to DEP's regulations and procedures relating to siting, public notice and participation for facilities which require DEP permitting. ONE/CHANE has also withdrawn its Title VI complaint, and earlier it withdrew its allegation of discriminatory impacts from the permitting of the North Hartford Landfill because changes to the landfill's permit conditions resolved its concern.

Asthma group announces plan to reduce childhood asthma

A group of federal, state and private agencies has announced a plan to reduce New England's skyrocketing asthma rates. The plan, approved during a December meeting of the New England Asthma Regional Council (ARC) in Manchester, NH, involves better tracking of asthma rates, family health education and new government policies aimed at improving air quality outdoors and in schools and homes.

"This group representing different agencies and states has come up with a comprehensive, aggressive plan for reducing the asthma epidemic in New England," said Robert W. Varney, Regional Administrator of EPA's New England Office. "Since we know there is a clear relationship between asthma and environmental triggers, we have absolutely no excuse for not acting now. Some of the action plan items will lead to measurable health results for our children."

EPA New England has invested about \$300,000 in asthma prevention activities in the past year, and directly supported the ARC with an additional \$65,000.

"We are delighted to be working with government and non-government partners across the housing, environment, school and public health sectors in New England," said Albert K. Yee, regional health administrator for the U.S. Department of Health and Human Services in New England. "Interdisciplinary collaboration is the key to reducing asthma incidence and severity, improving diagnosis and treatment, and understanding the causes and the triggers of this epidemic."

"New Hampshire recently received a three-year grant from the federal Centers for Disease Control for asthma. The grant will allow us to develop a statewide action plan to address this public health problem,"

said Dr. William Kassler, state medical director at the New Hampshire HHS.

New England asthma rates, as reported recently by the Centers for Disease Control and Prevention, rank among the highest in the nation. In Massachusetts, the prevalence rate is 8.5 percent, in Maine 8.9 percent, in New Hampshire 8.3 percent, in Vermont 7.2 percent, in Connecticut 7.8 percent, and in Rhode Island 8.5 percent. In low income and minority neighborhoods, the number of people who suffer from asthma is as high as 14 out of every 100, with children suffering disproportionately.

The number of Americans afflicted with asthma more than doubled to almost 15 million between 1980 and 1996 and the associated annual health care costs are \$12.7 billion, according to the CDC.

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Asthma, the most common chronic childhood disease, is one of the leading causes of school absenteeism – with the CDC estimating that asthma causes children to miss 10 million school days annually. Low-income and minority populations experience much higher rates of fatalities, hospital emissions and emergency room visits due to asthma.

The action plan targets action items in the areas of education, surveillance and reducing indoor and outdoor exposure. Specifically, the plan calls for:

- Developing of a regional tracking and surveillance system to identify who has asthma and where they live in New England:

The ARC was successful in soliciting asthma prevalence data in a recent survey conducted by the CDC.

- Programs to help families reduce asthma triggers in their homes, educators to reduce triggers in schools and landlords to reduce triggers in housing:

Through grants to community groups, health educators are teaching families and children about

how to control their asthma through better environmental trigger management.

- Publicly funded programs to consider reimbursement for home improvements, like mattress covers and pest management that reduce asthma triggers:

The ARC is studying opportunities for publicly funding asthma trigger interventions that follow Rhode Island's successful use of Medicaid funding to replace windows painted with lead paint for families who have young children that may at risk of poisoning.

- New guidelines sensitive to asthma triggers to be used by all publicly-funded housing agencies: *The ARC is developing building guidance for healthy homes that lays out key steps that housing*

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Plan to reduce childhood asthma in the region

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developers, contractors, property owners, and consumers can take to achieve healthier indoor environments. The guidance also presents specific building standards that can be incorporated into rehabilitation and new construction projects.

- Public funding allotments targeted for making building repairs to reduce asthma triggers:

Studies are under way to understand mechanisms for establishing a public funds account to be used for building renovations to make the home asthma-friendly.

- Policies requiring that all new public schools are built to provide quality indoor air:

Maine has a revolving loan fund that prioritizes state funding by providing funds to schools that include an air quality management plan as part of its renovation plan.

- Each state to pilot retrofit or replace diesel school buses with emission control technology:

Progress has been made in both Connecticut and Massachusetts to retrofit diesel school buses.

- Enforcing anti-idling laws in communities with high risk of asthma:

Efforts are under way to work with bus fleet operators in enforcing anti-idling laws.

Members of the ARC include EPA, HHS, the U.S. Department of Housing and Urban Development, state environment, health, housing and education agencies from Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island and Vermont, the Conservation Law Foundation, Boston Medical Center, Boston Asthma Coalition and others.



Above left: UEI staff receive a community tour of many urban vacant lots in Providence.

Urban Environmental Initiative to become a permanent program

resources to extensively sample the Hartford landfill and stimulating nearly \$13 million for pollution control improvements and over \$500,000 for community health studies.

- Turning two acres of vacant urban land into small farms which engaged more than 3,000 youth and produced over 300,000 pounds of organic produce annually in the Boston area.

- Coordinating a multilingual education campaign for thousands of urban residents on dioxin, PCB and bacteria contamination in the Woonasquatucket River in Providence.

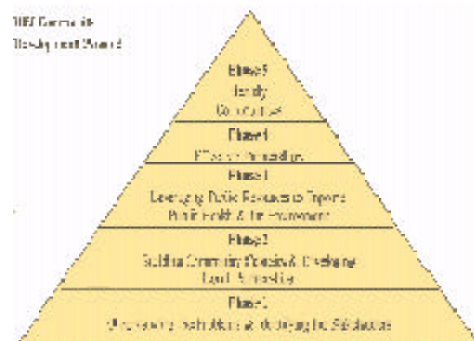
- Increasing access to information for thousands of urban residents through web sites, geographic information system maps and multilingual fact sheets.

- Helping reduce the incidence of elevated blood lead levels in Providence by 60 percent.

The UEI team could not have done it alone—the projects were coordinated with hundreds of partners from community groups,

non-profit organizations, corporations, colleges and universities, and federal, state and local government entities. UEI team members attribute much of their success to the community development model they created and unveiled at the 1999 National Community Involvement Conference sponsored by the EPA. The model uses a bottom-up approach to produce results and build sustainable infrastructure to ensure community involvement and sustained progress. The five phases of this model are described in the pyramid below.

The report is available on-line at <http://www.epa.gov/ne/eco/uei>, or call 617-918-1797 to request a printed copy.



UEI announces 2002 grantees

In January 2002, EPA New England's Urban Environmental Initiative announced \$377,800 in grants for projects addressing urban environmental and public health problems in Boston, Hartford and Providence.

The competitively awarded grants for Boston-area groups include:

Alternatives for Community and Environment received \$20,000 to work in partnership with Roxbury elementary schools and the T Riders Union on the Roxbury Environmental Empowerment Project that provides in depth training in environment and public health issues to young leaders.

The Food Project received \$25,000 to work in partnership with the Dudley Street Neighborhood Initiative to train, educate and employ urban youth from Roxbury and Dorchester in sustainable urban agriculture and integrated pest management at urban vacant lots that have been reclaimed as small farms.

New Ecology Inc. received \$4,400 to support a portion of the Green Community Development Corporation Initiative, which works to create a network of community development groups that allow participants to share sustainable development strategies and successes, build consensus around issues, and coordinate technical assistance, financial resources and academic programs.

Neighborhood of Affordable Housing in Chelsea received \$30,000 for its Chelsea Creek Master Planning Process and Comparative Risk Assessment Action Agenda—an effort to improve dialogue with industry and local residents in order to enact needed changes for Chelsea Creek, considered the most polluted and least accessible part of the Boston Harbor watershed. Other partners in the project include

Chelsea Green Space and Recreation Committee, Chelsea Creek Action Group, Campaign for the Water's Edge, Greater Boston Urban Resources Partnership, MA Riverways, MA Environmental Trust, The Watershed Institute, MA Executive Office of Environmental Affairs, MIT and Tufts University.



The Northern Rhode Island Conservation District will continue distributing the "Do's and Don'ts for the Woonasquatucket River" in 2002 through a UEI grant. The brochure is available in English, Spanish, Cambodian, Laotian, Vietnamese and Portuguese.

The Neighborhood Planning Association of Back Bay received \$40,000 to support work through the Alliance of Boston Neighborhoods for Community Education for Participation in Transportation Planning to host a series of community forums for Greater Boston residents on a range of issues impacting local transportation planning.

The Freedom House received \$80,000 to support the ongoing work of the Greater Boston Urban Resources Partnership by documenting the investments and measurable results from projects completed during the past four years, and identifying ways to provide technical and financial assistance to support

urban community needs across Massachusetts.

The competitively awarded grants for Providence-area groups include:

The Childhood Lead Action Project was awarded a \$30,000 grant to support the Rhode Island Lead Collaborative in distributing educational materials, providing technical assistance and training stakeholders and families across the state on lead poisoning prevention.

The Northern Rhode Island Conservation District was awarded \$18,400 to continue and expand the multilingual 'Do's and Don'ts for the Woonasquatucket River' campaign to educate local residents about the environmental and public health issues surrounding the river's use.

The competitively awarded grants for Hartford-area groups include:

The Hartford Regional Lead Treatment Center at Saint Francis Hospital and Medical Center received \$30,000 to work in partnership with the Betances Elementary School to enhance the home-based management of students' asthma and lead exposure.

The Connecticut Department of Environmental Protection received \$40,000 to work in partnership with Hartford 2000 and the Neighborhood Training Institute to train up to 50 urban community and business leaders about smart growth initiatives.

The City of Hartford Health Department was awarded \$30,000 to work with the Hartford Environmental Justice Network to initiate a grassroots city-wide public awareness campaign about asthma.

The Hartford Public School System was awarded \$30,000 to implement a program to improve indoor air-quality throughout its schools using EPA's Tools for Schools framework.

Low-income and minority residents being recruited for Brownfields job training

Groundwork Providence, a nonprofit group, will use a \$200,000 grant from the U.S. Environmental Protection Agency to start a two-year Brownfields job training program for 90 students. The grant was provided by the EPA's Brownfields Program, which helps redevelop Brownfields, sites that are abandoned or underused because of environmental contamination.

The Brownfields Job Training and Development Demonstration Pilot program is designed to ensure that residents of the communities affected by Brownfields also share in the benefits of their restoration and redevelopment.

Each year the project will recruit 45 underemployed or unemployed residents of predominantly low-income and minority neighborhoods. The 252-hour training will consist of worker health and safety training, environmental instruction, and remediation technologies training, including innovative remediation technologies for assessment and cleanup.

Graduates of the program will be qualified to work for private contractors or government agencies as environmental cleanup technicians and perform environmental assessment or remediation. Career placement support will be provided for students who complete the course, and the Providence Department of Planning and Development has committed to placing graduates on its list of first source hires.

Office highlight: Office of Solid Waste and Emergency Response

The following is a highlight from EPA New England's submissions to the OSWER Environmental Justice Success Stories Report for Fiscal Years 2001-2002.

Project Title: Eastern Surplus Company Superfund Site, Cleanup and Cultural Resource Protection

Project Activity: The project involved the cleanup of an abandoned junk yard filled with hazardous materials. One aspect of the cleanup was the mitigation of impacts to cultural resources including Native American artifacts over 9,000 years old. As part of the cultural resource protection EPA:

- Hired professional archaeologists to excavate a portion of the site to document the cultural resources.
- Funded a cultural study of the artifacts by the Passamaquoddy Indian Tribe.
- Provided internships for several members of the Passamaquoddy Tribe to participate in the archaeological investigations and studies.
- Agreed to develop outreach exhibits to educate the local community and the Passamaquoddy about the environmental cleanup and cultural resources at the site.

Project Participants: The Project Partners included EPA New England, Passamaquoddy Indian Tribe (Pleasant Point and Indian Township), Maine Department of Environmental Protection and the Maine Office of Historic Preservation.

Project Benefits:

- The project resulted in the discovery, documentation, and

preservation agreement for an important cultural site for the Passamaquoddy Indian Tribe.

- The project provided employment opportunities for several members of the Passamaquoddy Tribe. Tribal members were taught archaeological investigation and interpretive techniques. The project also resulted in employment for the members of the Passamaquoddy Tribe performing the cultural study.

- The project has increased the awareness regarding the significance of the cultural resources at the site and involved state agencies and the local community in understanding the environmental and cultural resources issues.

- EPA trained several members of the Passamaquoddy Indian Tribe in groundwater and soil sampling techniques.

- The project resulted in collaborative efforts between EPA, state agencies, the Passamaquoddy Indian Tribe, and the local residents regarding future site use and educational and outreach activities.

Lessons Learned: The project was successful, and the major lesson learned was to involve the Native American community as soon as possible in the cleanup process to fully involve the community in all phases of the cleanup.

Project Contact:

Edward Hathaway
Superfund Remedial Program
US EPA, Region I, OSRR
(617) 918-1372



Here EJ trainers get interactive training to deliver workshop

Cleanup of Mystic Station

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have been documented in 2001 and 2002. In 1997 and 1999, the Massachusetts Department of Environmental Protection issued notices to Mystic Station for opacity violations.

The Mystic Station's violations compromise Greater Boston's air with excess soot and other particulate matter, resulting in significant potential health effects for hundreds of thousands of area residents. EPA's investigation showed that Mystic Station's opacity violations can raise ground-level particulate levels as much as three micrograms per cubic meter of air, thereby contributing on its own up to seven percent of unhealthy particulate levels at the ground level. EPA considers fine particulate levels above 40.4 micrograms per cubic meter to be unhealthy for sensitive populations such as children and the elderly.

Sandoval and

Camden explained

continued from page 6

create rights judicially enforceable under section 1983.

That said, it should again be noted that potential claimants are still able to bring an administrative complaint alleging a violation of Title VI directly to EPA's Office of Civil Rights. The South Camden decision does not directly impact EPA's ability to accept and investigate Title VI administrative complaints. Additionally, unlike the Sandoval decision, which is good law throughout the U.S., the South Camden decision is controlling only in the Third Circuit, that is, in Pennsylvania, New Jersey, Delaware, and the U.S. Virgin Islands.

Who at EPA - New England can I contact for more information?

For more information about Title VI and the Sandoval and South Camden cases, contact Deputy Regional Counsel and Title VI Coordinator, Pam Hill, at 617-918-1092 or Assistant Regional Counsel, Wendoly Ortiz Langlois, at 617-918-1040.

EJ training to reach all 700+ EPA employees in the region

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Fundamentals Workshop with 30 participants in October 2001; and a Train the Trainer event with 34 participants in November 2001.

- The three-day EJ Fundamentals Workshop involves interactive training designed to teach:
 - Familiarization with and awareness of EJ issues (definitions, controversies and issues).
 - Tools for working with EJ issues (GIS maps, case studies, laws and other regulatory authorities).
 - Experiential learning about the history of EJ (history, site visit and public participation skit).

The course was designed to be modified by time and content to fit participants' backgrounds and needs. The one-day EJ Awareness course is one such modification that focuses on increasing staff knowledge and understanding of environmental justice and provides staff with tools to identify EJ communities and to enable them to factor EJ into their everyday work.

Two sessions of the one-day course, designed to accommodate

up to 30 people, are scheduled for March and one three-day training course, also designed to accommodate up to 30 people, is scheduled for April. The one and three-day course offerings are expected to alternate each month thereafter through February 2003 to give everyone in the agency ample time to fit a training session in their schedule.

Most of the training sessions will be held at EPA New England, 1 Congress Street, in Boston. Some sessions will also be held at the EPA's new regional laboratory in Chelmsford, MA, and some sessions may be held at state offices around the region. State staff will be invited to participate in all of the training sessions along with EPA staff. EPA will try to honor each reservation for training, but space is limited for each session, so reservations are not guaranteed. Watch the EPA New England Center for Learning and Development's Training Calendar each month for detailed environmental justice training schedules.

Varney meets with the Massachusetts Environmental Justice Assistance Network

EPA New England's regional administrator Robert W. Varney was a featured speaker at the Boston Bar Association Luncheon Series on January 24, 2002. The topic of the speaker series was the work of the Massachusetts Environmental Justice Assistance Network, which is a program of Alternatives for Community and Environment. ACE is a grassroots community advocacy group that works for environmental justice in Roxbury and Dorchester. Varney's comments addressed his deep commitment to environmental justice.

"With my appointment as regional administrator, I vowed to be an advocate for environmental justice

in New England, and a force for more aggressive implementation of EJ in all of our programs," said Varney.

The MEJAN is a network of over 170 attorneys, public health professionals and environmental consultants, that provide pro bono assistance to undeserved communities throughout Massachusetts. The network acts as a clearing-house linking community groups addressing environmental and public health issues with the free services of environmental professionals. If you would like more information on MEJAN, you can contact the director of the program, Quita Sullivan at 617-442-3343, extension 35.

Upcoming events

Connecticut Department of Environmental Protection's Hartford Neighborhood Environmental Project meetings. Hartford residents can ask DEP staff questions and voice concerns about environmental issues. All meetings are on the second Tuesday of each month at CT DEP, 79 Elm Street, Hartford, in Room 4B from 2:00 to 3:30. Contact Judith Prill 860-424-3694. **April 9 and May 14.**

Hartford Environmental Justice Network meeting. All meetings are on the second Thursday of each month at the Bubble & Squeak Laundromat, 130 Park Street, New Haven, from 6:00 to 8:00. Transportation and childcare can be arranged. Contact 888-548-1133. **March 14, March 23*, April 11 and May 5** *Grant-writing for Small Groups.

EPA New England one and three-day mandatory environmental justice training sessions. Sign up using the START system. **March 25 and March 27** (one-day each), **April 4-9** (three day) and **May 7 and 21** (one-day each).

Where and how to get more EJ info

Telephone Resources

James M. Younger
Director, Office of Civil Rights and Urban Affairs
617-918-1061

Kathleen Castagna
EJ Coordinator
617-918-1429

Ronnie Harrington
Environmental Justice Grants Program Manager
617-918-1703

Davina Wysin
EJ News contact
617-918-1020

National EJ Hotline
1-800-962-6215

State contacts

Connecticut
Edith Pestana, Ct. DEP, Environmental Equity Program
860-424-3044

Maine
Brook Barnes, Maine DEP, Deputy Commissioner
207-287-7887

Massachusetts
Veronica Eady, EOE, director of Environmental Justice
617-626-1053

Web Resources

EPA New England Environmental Justice Program website
<http://www.epa.gov/region1/steward/ejprog/index.html>

EPA New England Environmental Justice Grants Program
<http://www.epa.gov/region1/steward/ej/index.html>

National Office of Environmental Justice
<http://es.epa.gov/oeca/main/ej/index.html>

National Environmental Justice Advisory Council
<http://es.epa.gov/oeca/main/ej/nejac/index.html>

National Office of Civil Rights
<http://www.epa.gov/ocrpage1/aboutocr.htm>

New Hampshire

Philip O'Brien, NH DES
Director, Waste Management
603-271-2905

Rhode Island

Gerald McAvoy, RI DEM, lead EJ person for state
401-222-6607 X2301

Vermont

Edward Leonard, Vt. DEC Policy and Regulatory Manager
802-241-3811

